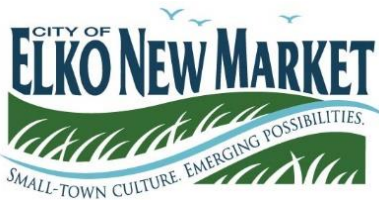


**CITY OF ELKO NEW MARKET  
CITY COUNCIL AGENDA  
ELKO NEW MARKET CITY HALL  
601 MAIN STREET  
ELKO NEW MARKET, MINNESOTA 55054  
THURSDAY, JANUARY 19, 2023**

**BUSINESS MEETING  
5:00 PM**

<https://us02web.zoom.us/j/86851416014>

- 1. Call to Order**
- 2. Pledge of Allegiance**
- 3. Adopt/Approve Agenda**
- 4. General Business**
  - a. Consider a Request for 30-Day Extension to the DNR's decision on the Need for EAW or EIS Related to the Proposed Niagara Bottling Project, Pursuant to Minnesota Rules 4410.1700 Subpart 2a(B).
- 5. Adjournment**



# STAFF MEMORANDUM

<b>SUBJECT:</b>	Request from DNR
<b>MEETING DATE:</b>	January 19, 2023
<b>PREPARED BY:</b>	Renee Christianson, Senior Planner
<b>REQUESTED ACTION:</b>	Consider DNR Request for Extension on Decision on Need for EAW Related to the Proposed Niagara Bottling Project

## COMMUNITY VISION:

- Envisioned to be a mature growing freestanding suburb of the Twin Cities Metropolitan Area, the City will foster a friendly and social environment that supports a safe, vibrant, and welcoming community. The community will be inclusive of people of all backgrounds and built on genuine relationships.
- The community will preserve its historic landmarks and small-town character while providing suburban amenities and services. A full range of employment, housing, business, service, social, technology infrastructure and recreational opportunities will be available for community members and visitors.
- The City will promote a diverse commercial and industrial tax base. The City will facilitate planned redevelopment. Development and redevelopment within the community will be aesthetically pleasing with architectural standards that promote quality development.
- The City will have a comprehensive park and trails system. The park system will have sufficient facilities, play fields and open space to meet the needs of the community's residents.
- The City will have an effective and efficient transportation system, including access to the greater metropolitan area, transit opportunities, and improved connectivity to the interstate.
- The City will provide community oriented local government that promotes community involvement, organizational improvements, problem solving, performance measurement and professionalism. The City will provide a full range of high-quality municipal services to its residents; allocate sufficient resources to meet the growing needs of the community; and be financially sound, engaging in long-term financial planning to provide municipal services without undue burden on the taxpayers of the City.

## PRIORITY GOALS:

- Advance the "shovel ready" status of areas guided for commercial and industrial development through planning and where feasible, the procurement of supporting infrastructure.
- Develop a more diverse tax base, create more local employment opportunities and promote additional businesses and services within the community.
- Enhance the quality of life in the community through the improvement and expansion of the parks and trails system, recreational programming and cultural events.
- Promote high quality residential development that includes a broad spectrum of housing choices in both type and cost. Facilitate the development of residential lots and an increase in residential building permit activity.

**COMMUNITY ORIENTED LOCAL GOVERNMENT:**

- Community Involvement - The City of Elko New Market will incorporate community feedback in making participative, transparent decisions by: Providing more opportunities for the public to have input on decisions that affect them; Engaging the public in strategic planning initiatives, both short and long term; Enabling the public to provide input on the effectiveness of public services and policies; and Working to develop leadership within the community.
- Organizational Improvement - The City of Elko New Market will strive to elevate the level of customer service and service delivery through cost effective use of personnel, structure, and information systems by: Developing an organizational climate that promotes innovation, creativity, collaboration and a customer-centered focus in providing community services, programs and projects; and Improve public services by reducing barriers between City departments in order to provide greater accessibility, flexibility, and efficiency in the delivery of public services.
- Problem Solving - The City of Elko New Market will engage in the process of proactive and systematic examination of identified issues in order to evaluate effective policy decisions by: Using available technology to improve the quality and accuracy of data used in decisions; Provide the resources to develop and implement the most cost-effective solutions; Considering the long-term costs and benefits in policy decisions; and Engaging in long-term financial planning to provide public services without undue burden on the taxpayers of the city.
- Performance Measurement - The City of Elko New Market will develop and utilize methods for measuring performance to evaluate progress and establish accountability for improving public services.
- Professionalism - The City of Elko New Market will provide local government that is characterized by high technical and ethical standards. The City will conduct business and present itself in a manner that promotes public confidence. The City will endeavor to recruit, train, and develop cohesive, high quality professional staff that will excel in providing public services.

**BACKGROUND:**

The City Council is being asked to consider a request from the DNR to postpone their decision on the need for an EAW regarding the proposed Niagara Bottling project.

Land use applications have been submitted to the City regarding proposed industrial park development, including an application for preliminary plat approval of the Park I-35 Industrial Park, and an application for rezoning and conditional use permit related to the Niagara Bottling plant proposing to locate within the industrial park.

Pursuant to Minn. Statute 4410.1100, a citizen petition was filed with the Minnesota Environmental Quality Board (EQB), requesting preparation of an Environmental Assessment Worksheet (EAW) related to the project. Specifically mentioned in the petition was concern about the effects of the proposed project on aquifer levels, water quality, the local economy, and climate change.

An EAW is a document designed to lay out basic facts of a project necessary to determine if an Environment Impact Statement (EIS) is required for a proposed project. The EAW describes a proposed project, details potential environmental effects, and identifies ways to reduce negative impacts to the environment. An EAW is not meant to approve or deny a project, but instead act as a source of information to guide other approvals and permitting decisions. The EAW is

completed by the responsible governmental unit (RGU) designated according to Minnesota Rules.

Because one primary concern stated in the petition relates to groundwater, the EQB assigned RGU authority to the DNR, who is now responsible for determining whether an EAW should be required. The DNR received the petition on December 12, 2022. Under Minnesota Rules, the DNR had 15 business days to make their determination, and they were granted an additional 15 business days, which expires on January 26, 2023.

DNR staff contacted City of Elko New Market staff on January 13, 2023, and indicating they are requesting an additional 30 days (from the January 26<sup>th</sup> deadline) to make their determination regard the need for an EAW related to the Niagara Bottling project. Pursuant to Minnesota Rules 4410.1700 Subp. 2a, the DNR has submitted a written request to postpone their decision on the need for an EAW an additional 30 days.

**ATTACHMENTS:**

DNR Extension Request dated January 18, 2023

## **Environmental Review Extension Request**

**Date:** 1/18/2023

**To:** Elko New Market City Council

**From:** Jill Townley, Environmental Review Supervisor, DNR

### **RE: Extension on the Determination of Need for an EAW for the Niagara Bottling Project, Elko New Market**

On December 12, 2022, the DNR Environmental Review Unit received a Citizen's Petition for an EAW regarding the Niagara Bottling Project, located in Elko New Market, Scott County, Minnesota. This project proposes to bottle and sell water for sale to the public. Minnesota Rules 4410.1100 describes the procedures for an RGU to assess a citizen petition and determine the need for an EAW. As part of the decision on the need for an EAW, Minnesota Rules 4410.1100 Subpart 6 directs an RGU to consider the criteria contained in Minnesota Rules 4410.1700, Subpart 7.

#### **Proposed Extension of Decision-making Timeframe**

As part of evaluating the criteria contained in Minnesota Rules 4410.1700, DNR has identified information that would be supportive in making a determination on the need for an EAW. The DNR has been investigating the proposed expanded water use by the City of Elko New Market that would be associated with this project and has been in dialogue with the project proposer on the most appropriate approach to plan for this expanded use. City staff have indicated that information supporting their expanded water use and planning for future expansions will be forthcoming. Once this additional information is received from the City, DNR will need to review it in the context of its technical information regarding water sources and potential impacts to other natural resources. This issue must be resolved before the DNR can finalize the Record of Decision that will support DNR's determination on whether the proposed project may have the potential for significant environmental effects and requires an Environmental Assessment Worksheet (EAW).

Therefore, pursuant to Minnesota Rules 4410.1700 Subpart 2a, the DNR proposes to postpone the decision on the need for an EAW for an additional 30 days to add this missing information and associated technical assessments to our Record.

**4410.1700 DECISION ON NEED FOR EIS.**

Subpart 1. **Standard for decision on need for EIS.** An EIS shall be ordered for projects that have the potential for significant environmental effects.

Subp. 2. **Decision-making process.** The decision on the need for an EIS shall be made in compliance with one of the following time schedules:

A. if the decision is to be made by a board, council, or other body which meets only on a periodic basis, the decision shall be made between three and 30 days after the close of the review period; or

B. for all other RGU's the decision shall be made no later than 15 days after the close of the 30-day review period. This 15-day period shall be extended by the EQB chair by no more than 15 additional days upon request of the RGU.

Subp. 2a. **Insufficient information.** If the RGU determines that information necessary to a reasoned decision about the potential for, or significance of, one or more possible environmental impacts is lacking, but could be reasonably obtained, the RGU shall either:

A. make a positive declaration and include within the scope of the EIS appropriate studies to obtain the lacking information; or

B. postpone the decision on the need for an EIS, for not more than 30 days or such other period of time as agreed upon by the RGU and proposer, in order to obtain the lacking information. If the RGU postpones the decision, it shall provide written notice of its action, including a brief description of the lacking information, within five days to the project proposer, the EQB staff, and any person who submitted substantive comments on the EAW.

Subp. 3. **Form and basis for decision.** The RGU's decision shall be either a negative declaration or a positive declaration. The RGU shall base its decision regarding the need for an EIS on the information gathered during the EAW process and the comments received on the EAW.

Subp. 4. **Record of findings supporting decision.** The RGU shall maintain a record, including specific findings of fact, supporting its decision. The record must include specific responses to all substantive and timely comments on the EAW. This record shall either be a separately prepared document or contained within the records of the governmental unit.

Subp. 5. **Distributing decision.** The RGU's decision shall be provided, within five days, to all persons on the EAW distribution list pursuant to part 4410.1500, to all persons that commented in writing during the 30-day review period, and to any person upon written request. All persons who submitted timely and substantive comments on the EAW shall be sent a copy of the RGU's response to those comments prepared under subpart 4. Upon notification, the EQB staff shall publish the RGU's decision in the EQB Monitor.

Subp. 6. **Standard.** In deciding whether a project has the potential for significant environmental effects the RGU shall compare the impacts that may be reasonably expected to occur from the project with the criteria in this part.

Subp. 7. **Criteria.** In deciding whether a project has the potential for significant environmental effects, the following factors shall be considered:

A. type, extent, and reversibility of environmental effects;

B. cumulative potential effects. The RGU shall consider the following factors: whether the cumulative potential effect is significant; whether the contribution from the project is significant when viewed in connection with other contributions to the cumulative potential effect; the degree to which the project complies with approved mitigation measures specifically designed to address the cumulative potential effect; and the efforts of the proposer to minimize the contributions from the project;

C. the extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority. The RGU may rely only on mitigation measures that are specific and that can be reasonably expected to effectively mitigate the identified environmental impacts of the project; and

D. the extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer, including other EISs.

Subp. 8. [Repealed, 13 SR 1437]

Subp. 9. **Connected actions and phased actions.** Connected actions and phased actions shall be considered a single project for purposes of the determination of need for an EIS.

**Statutory Authority:** *MS s 116D.04; 116D.045*

**History:** *13 SR 1437; 21 SR 1458; 31 SR 539; 34 SR 721*

**Published Electronically:** *August 20, 2018*